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OFFICE OF PETITIONS

In re Application of :
Necka, et al. :
Application No. 09/772,095 : DECISION REGARDING PTA
Filed: January 26, 2001 :
Atty. Dkt. No.: 00,1281 :

This decision is in response to the "REQUEST FOR CORRECTION OF PATENT TERM ADJUSTMENT," filed May 9, 2005. This request for reconsideration of patent term adjustment will be considered under 37 CFR 1.705(b).

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is **GRANTED**.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 808 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants request that the Determination of Patent Term Adjustment be corrected from 801 days, as indicated on the Determination of Patent Term Adjustment mailed March 1, 2005, to 808 days.

A review of the application history reveals that an adjustment of 801 days under 37 CFR 1.702(a)(1) can be attributed to the Office. In accordance with 37 CFR 1.703(a)(1), the adjustment began March 27, 2002, the day after the date that is fourteen months from the date the application was filed, and ended June 4, 2004, the date the non-final Office action was mailed.

The Office errantly entered August 27, 2004 as the date of reply to the non-final Office was filed rather than July 12, 2004, the date the application file history indicates a reply was filed.

Accordingly, a further adjustment of 7 days under 37 CFR 1.702(a)(2) can be attributed to the Office. In accordance with 37 CFR 1.703(a)(2), the reduction began November 13, 2004, the

day after the date that is four months after the date a reply to the non-final Office action was filed, and ended November 19, 2004, the date of mailing of final Office action.

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 808 days, as argued.

The required fee of \$200.00 (37 CFR 1.18(e)) for an application for patent term adjustment has been charged to Deposit Account No. 13-2490.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Karin Ferriter
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation